

Environmental Clearance Application  
Initial Study

**Baton Rouge Drive  
Property**

Application by  
Pulte Home Corporation

JULY 18, 2003

Mindigo & Associates      Environmental Consultants  
1984 The Alameda ■ San Jose, California 95126 ■ (408) 554-6531

## TABLE OF CONTENTS

<b>I.</b>	<b>PROJECT DESCRIPTION</b>	
A.	General Information.....	1
B.	Project Objective .....	10
C.	Description .....	10
<b>II.</b>	<b>ENVIRONMENTAL SETTING, IMPACT CHECKLIST AND MITIGATION</b>	
1.	Aesthetics.....	22
2.	Agriculture Resources .....	24
3.	Air Quality.....	26
4.	Biological Resources .....	30
5.	Cultural Resources .....	34
6.	Geology and Soils .....	36
7.	Hazards and Hazardous Materials .....	40
8.	Hydrology and Water Quality .....	44
9.	Land Use and Planning .....	50
10.	Mineral Resources .....	52
11.	Noise .....	53
12.	Population and Housing .....	59
13.	Public Services .....	60
14.	Recreation .....	63
15.	Transportation / Traffic .....	64
16.	Utilities and Service Systems .....	71
17.	Mandatory Findings of Significance.....	75

### APPLICANT'S CERTIFICATION

### APPENDIX

Authors and Consultants  
Disclosure Statement  
Persons and Organizations Consulted  
Sources and References

## LIST OF TABLES

1.	Project Data .....	13
2.	Local Air Quality .....	27
3.	Existing Levels of Service .....	66
4.	Project Traffic Generation .....	68
5.	Project Levels of Service .....	69

## LIST OF FIGURES

1.	Santa Clara Valley Map .....	2
2.	USGS Map .....	3
3.	Vicinity Map .....	4
4.	Assessor's Parcels .....	5
5.	Aerial Photo of the Vicinity .....	6
6.	Aerial Photo of the Site .....	7
7.	View of the Site .....	8
8.	View of the Site .....	9
9.	Land Use Plan .....	14
10.	Site Plan .....	15
11.	Typical Floor Plan .....	16
12.	Typical Elevations .....	17
13.	Typical Building Composite .....	18
14.	Roadway Grading & Drainage Plan .....	19
15.	Site & Landscape Plan .....	20
16.	Construction Details .....	21
17.	Potential Flooding .....	45
18.	Noise Attenuation .....	58
19.	Major Street System .....	65
20.	Traffic Impacts .....	70

**City of San Jose**

Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San Jose, CA 95110  
(408) 277-4576

## ENVIRONMENTAL CLEARANCE APPLICATION

TO BE COMPLETED BY PLANNING DIVISION STAFF		
FILE NUMBER:		RECEIPT #: _____
ND GRANTED:	EIR REQUIRED:	DATE: _____
PROJECT MANAGER:	ENVIRONMENTAL COORDINATOR:	AMOUNT: _____
		BY: _____
NOTES:		

### I. PROJECT DESCRIPTION

#### A. GENERAL INFORMATION

Applicant: Trumark Companies  
4185 Blackhawk Plaza Circle, Suite 200  
Danville, CA 94506  
925-648-8300, (fax) 925-648-3130  
Attn: Chris Davenport

Property Owner: Marilyn A. Messina, Diana M. Taylor,  
Stephanie A. Suhr, and Anita Messina  
c/o Bob Simmons  
Abbott, Stringham & Lynch  
910 Campisi Way  
Campbell, CA 95008-2351  
(fax) 408-377-0821

Environmental Consultant: Mindigo & Associates  
1984 The Alameda  
San Jose, CA 95126  
408-554-6531, (fax) 408-554-6577

Name of Project: **Baton Rouge Drive Property**

Location of Project: Southwesterly quadrant of Baton Rouge Drive  
and N. Capitol Avenue

Brief Description of Project: A 91-unit single family attached residential  
development on approximately 3.4 gross acres.

Assessor's Parcel Number(s): 254-06-039

[Click here for SANTA CLARA VALLEY MAP \(Figure 1\)](#)

[Click here for USGS MAP \(Figure 2\)](#)

[Click here for VICINITY MAP \(Figure 3\)](#)

[Click here for ASSESSOR'S PARCELS MAP \(Figure 4\)](#)

[Click here for AERIAL PHOTO OF THE VICINITY \(Figure 5\)](#)

[Click here for AERIAL PHOTO OF THE SITE \(Figure 6\)](#)

[Click here for VIEW OF THE SITE \(Figure 7\)](#)

[Click here for VIEW OF THE SITE \(Figure 8\)](#)

## B. PROJECT OBJECTIVE

The objective of this project is to construct high quality, single family attached homes on the site, in accordance with the goals and policies of the City of San Jose. The applicant believes that there is a market for them in this area.

## C. DESCRIPTION

The project is a single family attached residential development located on private streets. The Site Plan provides for 91 units.

The Project Data table and reduced copies of the project plans follow. Full size copies are available for review at the City of San Jose Department of Planning, Building and Code Enforcement.

### Unit Types

The buildings are planned to be three-story, wood frame structures with stucco, lap siding and/or optional brick veneer exteriors, wood or stucco trims and concrete tile roofs. Each unit has a private porch or deck; and a first-floor, two-car garage. There are 12 buildings with 4, 7, or 8 units per building, as follows:

Plan	No. of Stories	No. of Bedrooms	No. of Baths	Square Footage
1A	3	2	2.5	1,252
1B	3	3	2.5	1,369
2	3	2 to 3	2.5 to 3	1,292
3	3	3 to 4	3.5 to 4	1,505

### Access and Street System

The landscaping proposed is shown in schematic form on the Site & Landscape Plan, Figure 15. A landscaped strip is planned through the center of the project, as well as between the individual buildings. Specimen trees, shrubs, vines, turf and groundcover are planned.

Recreation facilities planned with the project include an approximately 3,400 square foot tot lot and an approximately 2,500 square foot turfed area for active and/or passive recreational activities, and including picnic areas.

### Access and Street System

Access to the project is from Baton Rouge Drive. The internal project street system is to be private. The private streets are to be constructed of asphaltic concrete on a rock base, with concrete curbs and gutters, and walkways and electroliers in accordance with City guidelines.

**Parking**

Parking for the project is provided by a combination of covered and open spaces. Covered parking is provided in first-floor garages. Common and guest parking spaces are located throughout the project as shown on the Site Plan, Figure 10.

**Exterior Lighting**

Standard electroliers in accordance with City standards are to be provided along the private streets. Downward-directed lighting fixtures with low-elevation standards are to be provided within the project interior, as shown on the Construction Details, Figure 16.

**Utilities**

All utilities required to serve the project, including sanitary sewer, wastewater treatment, water supply, storm drainage, natural gas, electricity and telephone, as further described in the following Utilities and Service Systems section, would be provided with the project. All of the utilities within the project are to be underground.

**Demolition**

There are no existing structures on the project site to be demolished.

**Hazardous Materials**

Hazardous materials other than those for normal household and yard use will not be used as a part of the operation of any of the establishments on the project site.

**Grading**

Grading planned for the project is shown on the following Roadway Grading & Drainage Plan, Figure 14. The final lot and street grading for the project is to be designed to conform to the natural ground as closely as possible. The amount of grading planned is the minimum required to provide public streets that meet requirements for structural section and rate of grade, and to allow the construction of level building pads with positive drainage. In addition to the lot and street excavation, trenching is required for the underground utilities and sewer system. Approximately 10,000 to 15,000 cubic yards of material are estimated to be moved during the grading operations. The maximum finished cut or fill is estimated to be less than three feet. Approximately 5,000 to 7,000 cubic yards of material would have to be imported to raise the site to provide adequate drainage.

**Tree Removal**

There is an inactive orchard onsite, which is to be removed, as further discussed in the following Biological Resources section.

**Public Improvements**

All existing public streets adjacent to the project site are fully dedicated and improved. All streets within the project are private streets that are to be improved in accordance with City standards. The precise improvement widths and private street rights-of-way are to be in conformance with City plans and requirements.

**Public Land Reservations**

There are no public land reservations with this project.

**Other Related Permits**

In addition to the proposed Planned Development (PD) zoning, other related permits to be obtained from the City of San Jose and/or any other public agency approvals required for this project by other local, State or Federal agencies are as follows:

<b>Agency</b>	<b>Permit/Approval</b>
City of San Jose	PD Permit, Tentative Map, Final Map, Grading Permit, Building Permits Annexation

**Community Meeting**

The project was presented to the Berryessa Community Advisory Council on April 14, 2003. The only discussion was on the density of the project. Door-to-door contact was made at the surrounding condominiums with very little interest. All of the surrounding Homeowner's Associations were contacted and none of them wanted to discuss the project at a monthly meeting. A project-only community meeting has not been held as there appears to be little interest.

**Table 1. Project Data**

Category		Figure
Gross and Net Acreage		3.4
Number of Single Family Units		
Two bedroom units		24
Three bedroom units		46
Four bedroom units		<u>21</u>
Total		91
Maximum Building Height (feet)		40
Estimated Population *		292
Estimated School Children		
K-8 (0.21)		20
9-12 (0.20)		<u>19</u>
Total		39
Estimated Price Range		\$400,000 to \$450,000
Estimated Wastewater ( <i>gallons/day</i> )		16,400
Estimated Water Demand ( <i>gallons/day</i> )		35,000
Estimated Solid Waste ( <i>tons/year</i> )		80
Coverage Factors	Acres	Percent
Buildings & Garages	2.0	59
Private Open Space	0.2	6
Common Open Space	0.8	23
Private Streets	<u>0.4</u>	<u>12</u>
Total	3.4	100
Density ( <i>units/gross and net acre</i> )		91 / 3.4 = 26.8
Start/Completion Dates		Spring, 2004 / Winter, 2005

\* Based on 2000 Census average of 3.20 persons per dwelling unit.

[Click here for](#)  
LAND USE PLAN  
(FIGURE 9)

[Click here for](#)  
INSERT SITE PLAN  
(FIGURE 10)

[Click here for](#)  
TYPICAL FLOOR PLAN  
(FIGURE 11)

[Click here for](#)  
TYPICAL ELEVATIONS  
(FIGURE 12)

[Click here for](#)  
TYPICAL BUILDING COMPOSITE PLAN  
(FIGURE 13)

[Click here for](#)  
ROADWAY GRADING & DRAINAGE PLAN  
(FIGURE 14)

[Click here for](#)  
SITE & LANDSCAPE PLAN  
(FIGURE 15)

[Click here for](#)  
CONSTRUCTION DETAILS  
(FIGURE 16)

## II. ENVIRONMENTAL SETTING, IMPACT CHECKLIST AND MITIGATION

### 1. AESTHETICS

#### SETTING

The current view of the project site consists of an inactive orchard, which can be seen in the preceding photographs, Figures 7 and 8.

#### Scenic Route

The project site is not located adjacent to a designated scenic route.

#### SIGNIFICANCE CRITERIA

The proposed project would have a significant impact on aesthetics if it would:

- Have a substantial adverse effect on a scenic vista.
- Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings and historic buildings within a state scenic highway.
- Substantially degrade the existing visual character or quality of the site and its surroundings.
- Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area.
- Increase the amount of shade in public and private open space on adjacent sites.

#### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>1. AESTHETICS. Would the project:</b>					
a. Have a substantial adverse effect on a scenic vista?				<b>X</b>	25,26,27
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings and historic buildings within a state scenic highway?				<b>X</b>	25, 26,27,29
c. Substantially degrade the existing visual character or quality of the site and its surroundings?		<b>X</b>			25,26,27
d. Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?		<b>X</b>			25,26,28
e. Increase the amount of shade in public and private open space on adjacent sites?			<b>X</b>		25,26,28

The current view of the site consists of an inactive orchard as shown on the preceding photographs, Figures 7 and 8. The project would change the view of the site from an inactive orchard to single family attached residential.

### **Light and Glare**

The project could potentially produce offsite light and glare. Normal exterior household lighting is to be provided with the residences. The project would be designed to utilize downward-directed lights with low elevation standards in the parking areas and downward-directed street lights in order to prevent offsite glare.

### **Temporary Construction Visual Impacts**

Construction of a typical project causes short-term visual impacts. The grading operations create a visual impact, and construction debris, rubbish and trash can accumulate on construction sites and are unsightly if visible from public streets. The completion of the project improvements and landscaping would eliminate the short-term visual impacts of the grading and construction operations.

#### *MITIGATION MEASURES INCLUDED IN THE PROJECT*

- Trees and landscaping shall be provided.

### **Light and Glare**

- Downward-directed lights with low elevation standards in the parking areas and downward-directed street lights along the public streets shall be provided in order to prevent offsite glare.

### **Temporary Construction Visual Impacts**

- Public streets that are impacted by project construction activities shall be swept and washed down daily.
- Debris, rubbish and trash shall be cleared from any areas onsite that are visible from a public street.

## 2. AGRICULTURE RESOURCES

### SETTING

#### Important Farmlands

The *Santa Clara County Important Farmland Map*, prepared by the California Department of Conservation and the USDA Soil Conservation Service, classifies land in seven categories in order of significance: 1) prime farmland, 2) farmland of Statewide importance, 3) unique farmland, 4) farmland of local importance, 5) grazing land, 6) urban and built-up land and 7) other land. The project site is classified as "urban and built-up land," which is defined as land occupied by structures with a building density of at least one unit to one and one-half acres.

#### Williamson Act

The California Land Conservation Act ("Williamson Act") was enacted to help preserve agricultural and open space lands via a contract between the property owner and the local jurisdiction. Under the contract, the owner of the land agrees not to develop the land in exchange for reduced property taxes. The project site is not under a Williamson Act contract.

### SIGNIFICANCE CRITERIA

The proposed project would have a significant impact on agriculture resources if it would:

- Convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.
- Conflict with existing zoning for agricultural use, or a Williamson Act contract.
- Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use.

### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>2. AGRICULTURE RESOURCES. Would the project:</b>					
a. Convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X	30,31
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X	32,57
c. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?				X	25,26,28

**Important Farmlands**

The project site is classified as urban and built-up land on the *Important Farmland Map* for Santa Clara County. Since the site is not classified as farmland, the project would not have a significant impact on agricultural land.

*MITIGATION MEASURES INCLUDED IN THE PROJECT*

None required.

### 3. AIR QUALITY

#### *SETTING*

##### **Bay Area Air Quality Management District**

The project site is located in the Bay Area Air Quality Management District (BAAQMD). The District includes seven Bay Area counties and portions of two others. Air quality emission and control standards are established by the BAAQMD and the California Air Resources Board, and by the Environmental Protection Agency (EPA) at the Federal level. These agencies are responsible for developing and enforcing regulations involving industrial and vehicular pollutant emissions, including transportation management and control mitigation measures.

##### **Regional Climate**

The air quality of a given area is not only dependent upon the amount of air pollutants emitted locally or within the air basin, but also is directly related to the weather patterns of the region. The wind speed and direction, the temperature profile of the atmosphere, and the amount of humidity and sunlight determine the fate of the emitted pollutants each day, and determine the resulting concentrations of air pollutants defining the “air quality.”

The Bay Area climate is Mediterranean, with mild, rainy winters November through March, and warm, sunny and nearly dry summers June through September. Summer temperature inversions trap ground level pollutants. Winter conditions are less conducive to smog, but thin evening inversions sometimes concentrate carbon monoxide emissions at ground level.

##### **Air Quality Standards**

The U.S. Environmental Protection Agency (U.S. EPA) and the California Air Resources Board have both established ambient air quality standards for common pollutants to avoid adverse health effects from each pollutant. The pollutants, which include ozone, carbon monoxide (CO), nitrogen dioxide, sulfur dioxide and particulate matter (PM<sub>10</sub>), and their standards are included in the Local Air Quality table that follows.

##### **Regional Air Quality**

The Federal Clean Air Act and the California Clean Air Act of 1988 require that the State Air Resources Board, based on air quality monitoring data, designate portions of the state where the federal or state ambient air quality standards are not met as “nonattainment areas”. In June of 1998, the U.S. EPA reclassified the Bay Area from “maintenance area” to nonattainment for ozone based on violations of the federal standards at several locations in the air basin. This reversed the air basin’s reclassification to “maintenance area” for ozone in 1995. Reclassification required an update to the region’s federal air quality plan.

Under the California Clean Air Act, Santa Clara County is a nonattainment area for ozone and particulate matter (PM<sub>10</sub>). The county is either attainment or unclassified for the other

pollutants. The California Clean Air Act requires local air pollution control districts to prepare air quality attainment plans; these plans must provide for district-wide emission reductions of five percent per year averaged over consecutive three-year periods or, if not, provide for adoption of “all feasible measures on an expeditious schedule”.

### Local Air Quality

Air quality in the project area is subject to the problems experienced by most of the Bay Area. Emissions from millions of vehicle-miles of travel each day often are not mixed and diluted, but are trapped near ground level by an atmospheric temperature inversion. Prevailing air currents generally sweep from the mouth of the Bay toward the south, picking up and concentrating pollutants along the way. A combination of pollutants emitted locally, the transport of pollutants from other areas, and the natural mountain barriers (the Diablo Range to the east and the Santa Cruz Range to the southwest) produce high concentrations. Air quality data from the last three years at the nearest BAAQMD monitoring station in San Jose, and Federal and State standards, are shown in the following table.

**Table 2. Local Air Quality**

Pollutant	Standard	Days Exceeding Standard		
		1999	2000	2001
OZONE				
State 1-hour	0.09 ppm	3	0	2
Federal 1-hour	0.12 ppm	0	0	0
Federal 8-hour	0.08 ppm	0	0	0
CARBON MONOXIDE				
State/Federal 8-hour	9.0 ppm	0	0	0
NITROGEN DIOXIDE				
State 1-hour	0.25 ppm	0	0	0
PARTICULATE MATTER (PM <sub>10</sub> )				
State 24-hour	50 µg/m <sup>3</sup>	5	7	4
Federal 24-hour	150 µg/m <sup>3</sup>	0	0	0

SOURCE: Bay Area Air Quality Management District monitoring data for San Jose.

ppm = parts per million

µg/m<sup>3</sup> = micrograms per cubic meter

### Project Site

The project site is similar to other locations in the South Bay; air quality meets adopted State and/or Federal standards (the more stringent standard applies) on most days, and during periods when regional atmospheric conditions are stagnated, the air quality is poor throughout the extended South Bay area. There are no existing sources on the project site that currently adversely affect local air quality.

### Sensitive Receptors

Sensitive receptors are facilities where sensitive receptor population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. These land uses include residences, schools, playgrounds, child care centers, retirement homes, convalescent homes, hospitals and medical clinics. The closest sensitive receptors are the single family attached residences located south and west of the project site.

### SIGNIFICANCE CRITERIA

The proposed project would have a significant impact on air quality if it would:

- Conflict with or obstruct implementation of the applicable air quality plan.
- Violate any air quality standard or contribute substantially to an existing or projected air quality violation.
- Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors).
- Expose sensitive receptors to substantial pollutant concentrations.
- Create objectionable odors affecting a substantial number of people.

### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>3. AIR QUALITY. Would the project:</b>					
a. Conflict with or obstruct implementation of the applicable air quality plan?				<b>X</b>	29,34
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?		<b>X</b>			26,34
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?			<b>X</b>		26,34
d. Expose sensitive receptors to substantial pollutant concentrations?				<b>X</b>	28,34
e. Create objectionable odors affecting a substantial number of people?				<b>X</b>	26,28

### Project Impacts

For most types of development projects, motor vehicles traveling to and from the project represent the primary source of air pollutant emissions associated with the project. The

BAAQMD has established thresholds of significance for these indirect impacts from projects on local and regional air quality. An air quality analysis is recommended when vehicle emissions of carbon monoxide (CO) exceed 550 lbs/day; and if a project generates over 80 lbs/day of reactive organic gases (ROG), nitrogen oxides (NO<sub>x</sub>) or suspended particulate matter (PM<sub>10</sub>), it would have a significant air quality impact. The District has also developed sizes or activity levels for various types of land use, using default values, that would exceed the threshold of significance for NO<sub>x</sub> (80 lbs/day). For single family residential, the size is 320 units. The proposed 91-unit project is substantially below that level and, therefore, would not have a significant air quality impact.

### **Odors**

The project would not generate objectionable odors or place sensitive receptors adjacent to a use that generates odors (i.e., landfill, composting, etc.).

### **Temporary Construction Air Quality**

Project construction would produce short-term fugitive dust generated as a result of soil movement and site preparation. Construction would cause dust emissions that could have a significant temporary impact on local air quality. Fugitive dust emissions would be associated with site preparation activities, such as excavation and grading, and building construction. Dust emissions would vary substantially from day to day, depending on the level of activity, the specific operations, and weather conditions. Particulates generated by construction are recognized, but small, contributing sources to regional air quality. While it is a potential impact, construction dust emissions can be mitigated by dust control and suppression practices that are appropriate for the project and level of activity.

#### *MITIGATION MEASURES INCLUDED IN THE PROJECT*

### **Temporary Construction Air Quality**

- A Construction Air Quality Plan shall be developed and implemented for dust control to include dust suppression practices such as: 1) frequent watering; 2) damp sweeping of haul routes, parking and staging areas; 3) installation of sandbags or other erosion control measures to prevent silt runoff to public roadways; 4) vehicle speed controls; 5) watering or the use of soil stabilizers on haul routes, parking and staging areas; 6) prohibition of grading during high winds; 7) hydroseeding areas where grading is completed or inactive; 8) covering of stockpiles and loads in haul vehicles; 9) maintaining at least two feet of freeboard in all haul vehicles; 10) limiting the area being graded at a given time; 11) monitoring of particulate levels; and 12) enforcement measures.

## 4. BIOLOGICAL RESOURCES

*Live Oak Associates, Inc. conducted a burrowing owl survey that is included in the Technical Appendix.*

### SETTING

#### **Vegetation**

The project site is presently an inactive orchard, with a low herbaceous ground cover. There are no designated Heritage Trees on the site, and no rare or endangered plant species are known to inhabit the site.

#### **Riparian Corridor Habitat**

Riparian corridor habitat, i.e., vegetation occurring along the banks of a waterway, is not located on or within 300 feet of the project site. The project would not be constructed within 100 feet of riparian corridor habitat (within 100 feet of the top of bank or edge of riparian vegetation of any waterway).

#### **Wildlife**

The project site contains disturbed/agricultural habitat. Wildlife typically associated with this habitat type include birds, reptiles and small mammals. No rare or endangered animal species are known to inhabit the site. The site does not contain any known important wildlife breeding, nesting or feeding areas.

#### **Burrowing Owls**

The burrowing owl is a small, terrestrial owl that occurs in annual and perennial grasslands, deserts and scrublands with low-growing vegetation. Suitable owl habitat may also include trees and shrubs if the canopy does not cover more than 30 percent of the ground surface. Burrows, which provide protection, shelter and nests for burrowing owls, represent an essential component of this species' habitat. Burrowing owls typically use burrows made by fossorial (burrowing) animals, such as ground squirrels or badgers, but they will also use man-made structures such as culverts, or openings beneath cement, asphalt paving or debris piles. Burrowing owls use such sites for breeding, wintering, foraging and migration stopovers. Occupancy of suitable habitat may be verified by observations of one or more burrowing owls on the site or by the presence of owl feathers, cast pellets (or prey remains), eggshell fragments or excrement in or near a burrow entrance. Burrowing owls are protected under a variety of state and federal laws including the Migratory Bird Treaty Act and the California Department of Fish and Game (CDFG) Code as a "Species of Special Concern".

A burrowing owl survey was conducted on April 2, 2003, to ascertain if burrowing owls were currently using the site. Historically, no burrowing owls have been noted within 3 miles of the site. The project site is relatively level and contains an inactive orchard. The rows between the trees had recently been disced and were overlain with the previous ground vegetation, which

was 18-inch to 24-inch-long grasses. The site was lacking any type of burrows, likely due to the fact that the site was covered by dense, tall grasses for some time. The survey failed to detect any owls or evidence of their presence (e.g., feathers, white wash, pellets, etc.).

#### SIGNIFICANCE CRITERIA

The proposed project would have a significant impact on biological resources if it would:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act including, but not limited to, marsh, vernal pool, coastal, etc., through direct removal, filling, hydrological interruption or other means.
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan.

#### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>4. BIOLOGICAL RESOURCES. Would the project:</b>					
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X			25,59,85
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X	25,70

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>4. BIOLOGICAL RESOURCES (Cont.). Would the project:</b>					
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act including, but not limited to, marsh, vernal pool, coastal, etc., through direct removal, filling, hydrological interruption or other means?				X	25
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X	25
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X	25,29,37
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?				X	25,29

### Wildlife

The project requires the removal of all of the orchard trees and vegetation on the site. The birds and small mammals would diminish during the initial construction, but as the urban landscaping matures, birds that have adapted to the urban environment would return.

### Burrowing Owls

Historically, no burrowing owls have been noted within 3 miles of the site; and a burrowing owl survey conducted on April 2, 2003 detected no burrowing owls or evidence of their presence. Thus, due to the absence of burrowing owls presently on the site, the lack of suitable habitat, (recent high grasses), and the lack of records of burrowing owls in the site vicinity, site development would not have a significant impact on burrowing owls. Even though burrowing owls are presently absent from the site, they are a volant species and pre-construction surveys should be conducted to ensure that site conditions have not changed and no burrowing owls have begun over-wintering or breeding on the site.

### MITIGATION MEASURES INCLUDED IN THE PROJECT

### Burrowing Owls

- A pre-construction survey for burrowing owls shall be conducted by a qualified ornithologist within 30 days prior to site grading.

- A construction-free buffer zone to be determined by the ornithologist shall be established around any active owl nests.
- No construction activities that would result in disturbance to nesting burrowing owls shall occur.
- If any burrowing owls are discovered using the site during the pre-construction surveys during the non-breeding season, a burrowing owl relocation plan to be approved by the California Department of Fish and Game shall be developed and implemented, including passive measures such as installation of one-way doors in active burrows for up to four days, careful excavation of all active burrows after four days to ensure no owls remain underground, and filling all burrows in the construction area to prevent owls from using them.

## 5. CULTURAL RESOURCES

### SETTING

#### Prehistoric Resources

The project site is not within a potential archaeological resource zone as outlined on the maps on file at the City of San Jose Department of Planning, Building and Code Enforcement. There are no known cultural sites on the project site, nor does the site have any natural features of significant scenic value or with rare or unique characteristics.

#### Historic Resources

There are no existing structures located on the project site.

### SIGNIFICANCE CRITERIA

The proposed project would have a significant impact on cultural resources if it would:

- Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines §15064.5.
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines §15064.5.
- Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature.
- Disturb any human remains, including those interred outside of formal cemeteries.

### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>5. CULTURAL RESOURCES. Would the project:</b>					
a. Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines §15064.5?				<b>X</b>	25,39,40
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines §15064.5?		<b>X</b>			27,38
c. Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?				<b>X</b>	27,59
d. Disturb any human remains, including those interred outside of formal cemeteries?		<b>X</b>			27

## **Prehistoric Resources**

The project site is not in a potential archaeological resource zone. There is no basis to warrant subsurface investigations or monitoring during construction at this time; however, there is still a possibility that unknown subsurface cultural resources may exist on the site.

### *PROGRAM MITIGATION MEASURES*

- Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California: In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified by the developer and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall reinter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

### *MITIGATION MEASURES INCLUDED IN THE PROJECT*

- Should evidence of prehistoric cultural resources be discovered during construction, work in the immediate area of the find shall be stopped to allow adequate time for evaluation and mitigation, and a qualified professional archaeologist called in to make an evaluation; the material shall be evaluated; and if significant, a mitigation program including collection and analysis of the materials prior to the resumption of grading, preparation of a report and curation of the materials at a recognized storage facility shall be developed and implemented under the direction of the Director of Planning, Building and Code Enforcement.

## 6. GEOLOGY AND SOILS

### SETTING

#### Topography

The project site has a uniform southwesterly slope of approximately one percent. Elevations on the site range from approximately 145 feet along the northeasterly boundary to approximately 138 feet along the southwesterly boundary. There are no significant topographical features on the site.

#### Geology

The project site is underlain by Quaternary alluvium (Qal), which consists of unconsolidated to weakly consolidated silt, sand and gravel. Quaternary alluvium includes Holocene and late Pleistocene alluvium and minor amounts of beach and dune sand and marine terrace deposits.

#### Geologic Hazard Zone

The project site is not located in a geologic hazard zone as mapped by the City of San Jose in accordance with the Geologic Hazards Ordinance.

#### Soils

The project site is underlain by the alluvial soils of the Yolo association as classified by the United States Department of Agriculture, Soil Conservation Service. Zamora clay loam, 0-2% slopes (ZbA) is the specific soil type identified at the site. Zamora clay loam, 0-2% slopes, is characterized by a dark grayish brown, massive, hard, neutral surface layer approximately 12 to 20 inches thick; good natural drainage; moderately slow subsoil permeability; very slow surface runoff; no erosion hazard; high inherent fertility (Class I); and a moderate shrink/swell capacity.

According to Cooper-Clark and Associates' *San Jose Geotechnical Investigation*, the site is mapped as having a moderately high liquefaction potential, weak soil layers and lenses occurring at random locations and depths, moderately expansive soil, no erosion potential, and is not susceptible to landslides. These soils conditions can be managed using standard engineering measures and do not require further geologic study at this time as part of the environmental review process, but may require further analysis prior to the issuance of a grading or building permit.

#### Faulting

There are no identified earthquake faults mapped on the site. The nearest active fault zones are the Hayward and Calaveras Faults, which are mapped approximately 2.8 and 4.2 miles respectively to the northeast, and the San Andreas Fault, which is mapped approximately 15.5 miles to the southwest.

### SIGNIFICANCE CRITERIA

The proposed project would have a significant geology and soils impact if it would:

- Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:
  - 1) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.).
  - 2) Strong seismic ground shaking.
  - 3) Seismic-related ground failure, including liquefaction.
  - 4) Landslides.
- Result in substantial soil erosion or the loss of topsoil.
- Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.
- Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property.
- Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater.

### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>6. GEOLOGY AND SOILS. Would the project:</b>					
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving: <ol style="list-style-type: none"> <li>1) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)</li> </ol>				<b>X</b>	42, 43,46,47
2) Strong seismic ground shaking?		<b>X</b>			27,45
3) Seismic-related ground failure, including liquefaction?			<b>X</b>		45
4) Landslides?				<b>X</b>	43,45
b. Result in substantial soil erosion or the loss of topsoil?		<b>X</b>			44,45
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				<b>X</b>	45

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>6. GEOLOGY AND SOILS (Cont.). Would the project:</b>					
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			X		44,45
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X	28

The site is mapped as having a moderately high liquefaction potential, weak soil layers and lenses occurring at random locations and depths, moderately expansive soil, no erosion potential, and is not susceptible to landslides. Detailed onsite investigations would be performed prior to the design and construction of the project, in order to determine the in-place conditions of the soils on the site and make appropriate recommendations for the design and construction of the project.

### **Erosion**

Development of the project site may subject the soils to accelerated erosion. In order to minimize erosion, erosion control measures such as those described in the Association of Bay Area Governments (ABAG) *Manual of Standards for Erosion & Sediment Control Measures* would be incorporated into the project.

### **Ground Rupture**

Ground rupture (surface faulting) tends to occur along lines of previous faulting. As there are no known faults on the site, the potential for ground rupture due to an earthquake is low.

### **Seismic Shaking**

The maximum seismic event occurring on the site would probably be from effects originating from the Hayward, Calaveras, or San Andreas fault systems. Ground shaking effects can be expected in the area during a major earthquake originating along any of the active faults within the Bay Area. At present, it is not possible to predict when or where movement will occur on these faults. It must be assumed, however, that movement along one or more of these faults will result in a moderate or major earthquake during the lifetime of any construction on this site. The effects on development would depend on the distance to the earthquake epicenter, duration, magnitude of shaking, design and quality of construction, and geologic character of materials underlying foundations.

The maximum credible earthquake, which is defined as *"the maximum earthquake that appears capable of occurring under the presently known framework"*, for the San Andreas Fault ranges from magnitude 8.0 to 8.3; and from magnitude 7.0 to 7.5 for either the Hayward or Calaveras Faults. The maximum probable earthquake, which is defined as *"the maximum earthquake that is likely to occur during a 100-year interval"*, for the San Andreas Fault ranges from magnitude 7.5 to 8.5; from magnitude 6.75 to 7.5 for the Hayward Fault; and from magnitude 6.5 to 7.0 for the Calaveras Fault.

Structural damage from ground shaking is caused by the transmission of earthquake vibrations from the ground into the structure. Ground shaking is apparently the only significant threat to structures built on the site; however, it is important to note that well-designed and constructed structures that take into account the ground response of the soil or rock in their design usually exhibit minor damage during earthquake shaking.

The project would be designed and constructed in accordance with Uniform Building Code requirements, which are intended to reduce seismic risks to an acceptable level.

#### *PROGRAM MITIGATION MEASURES*

##### **Seismic Shaking**

- The project shall be designed and constructed to ensure structural stability as required by the earthquake design regulations of the Uniform Building Code.

#### *MITIGATION MEASURES INCLUDED IN THE PROJECT*

##### **Erosion**

- A City approved erosion control plan shall be developed and implemented with such measures as: 1) the timing of grading activities during the dry months, if feasible; 2) temporary and permanent planting of exposed soil; 3) temporary check dams; 4) temporary sediment basins and traps and/or 5) temporary silt fences.

## 7. HAZARDS AND HAZARDOUS MATERIALS

*AEI Consultants conducted a Phase I environmental site assessment that is included in the Technical Appendix.*

### SETTING

#### **Phase I Environmental Site Assessment**

A Phase I environmental site assessment was conducted to identify potential environmental concerns regarding the presence of hazardous materials, their use, storage and disposal at and in the vicinity of the project site, as well as any regulatory non-compliance that may have occurred at the project site. The assessment included a review of historic sources to help ascertain previous land use at the site and surrounding area; a property and surrounding site reconnaissance with personal interviews to identify environmental contamination; a review of federal, state and local agency databases that identify and describe underground fuel tank sites, leaking underground fuel tank sites, hazardous waste generation sites, and hazardous waste storage and disposal facility sites; and a soil investigation with a pesticide sampling and analysis program. The goal of the assessment was to identify the presence or likely presence of any hazardous substances or petroleum products on the site that may indicate an existing release, a past release, or a material threat of a release of any hazardous substance or petroleum product into the soil, groundwater or surface water.

#### **Historical Review**

Historical aerial photographs of the site and surrounding area from 1954 through 1999 were reviewed. In the 1954 and 1963 aerial photographs, the project site and adjacent properties were improved with orchards and scattered residences. No significant changes were observed in the 1971 photograph. In the 1980 photograph, the south and southwest adjacent properties appear to be vacant and undeveloped land. In the 1990 and 1999 photographs, the project site and surrounding properties were as they are today. Based on the review of the aerial photographs, the project site appears to have been improved with orchards from the early 1950s to the present. Prior to the agricultural development, the project site was presumably vacant and undeveloped land.

#### **Site Reconnaissance**

A site reconnaissance was conducted on December 13, 2002 to obtain information indicating the likelihood of recognized environmental conditions at the site and adjacent properties. No hazardous substances and/or petroleum products, aboveground and/or underground storage tanks, identified or unidentified hazardous substance containers, stained soil or pavement, stressed vegetation, wells, etc. were observed. One pad transformer was observed on a surrounding property. No spills, staining or leaks were observed on or around the transformer; it is not expected to represent a significant environmental concern.

**Regulatory Agency Review**

Several regulatory agency databases were searched to identify any documented environmental releases and/or properties that use, store or dispose of regulated chemicals, as detailed in the report in the Technical Appendix. The project site and adjacent sites were not listed on any of the databases reviewed. One (hydrologically cross-gradient) site was listed within a 0.25-mile radius on the Underground/Aboveground Storage Tanks list; however, this site was not listed on the Leaking Underground Storage Tanks (LUST) list and is not a significant environmental concern. One (hydrologically downgradient) site was listed within a 1.0-mile radius on the California Sites (CalSites) list. This site was referred to the Regional Water Quality Control Board in 1990, but was removed from the State site list in 1994. This site is not expected to represent a significant environmental concern.

**Soil Investigation**

The agricultural nature of the project site may have involved the application, storage and/or mixing of pesticides and herbicides. Sixteen soil samples were collected from approximately 6 to 9 inches below ground surface (bgs) on December 11, 2002. No product (pesticide or chemical) odor or staining was observed during the sample collection. The samples were analyzed for chlorinated pesticides using U.S. EPA methodologies. DDE was detected in each of the 16 samples, ranging from 2.1 µg/kg to 140 µg/kg; and DDT was detected in 15 of the samples, ranging from 1.1 µg/kg to 21 µg/kg. The pesticide toxaphene was also detected at 150 µg/kg. The results of the analytical testing are summarized in the report in the Technical Appendix.

*SIGNIFICANCE CRITERIA*

The proposed project would have a significant hazards and hazardous materials impact if it would:

- Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials.
- Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.
- Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste within one-quarter mile of an existing or proposed school.
- Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment.
- For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area.
- For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area.
- Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.

- Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

#### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>7. HAZARDS AND HAZARDOUS MATERIALS. Would the project:</b>					
a. Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?			X		26, 27,28,86
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X	28,86
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste within one-quarter mile of an existing or proposed school?				X	27,28,86
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X	52
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X	27,61
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X	27,61
g. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?				X	27
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X	25, 27,72,73

#### Agricultural Pesticides

The project site was historically used as an orchard. A soil investigation to determine the extent of any pesticide contamination was conducted, and three pesticides in the near surface soil of the

site were detected: DDE, DDT, and toxaphene. The concentrations of the three chemicals were compared with their respective limit concentrations and preliminary remediation goals (PRGs). Comparison with the TTLCs indicated that the soil would not be considered hazardous for waste characterization purposes, and the maximum concentrations of each of the three chemicals detected were below their respective PRGs for soil at proposed residential properties. No additional sampling or site investigation appears warranted.

**Demolition**

There are no structures existing on the project site.

*MITIGATION MEASURES INCLUDED IN THE PROJECT*

None required.

## 8. HYDROLOGY AND WATER QUALITY

### SETTING

#### Waterways

There are no waterways on the project site or within 300 feet of the project site.

#### Flooding

The project site is not within an area of historic flooding; however, according to the Federal Emergency Management Agency's (FEMA) *Flood Insurance Rate Maps*, the site is within the limits of potential inundation with the occurrence of a one percent flood. According to the Santa Clara Valley Water District's (SCVWD) *Maps of Flood Control Facilities and Limits of 1% Flooding*, the site is within a flood zone to a depth of one foot or more. The limits of the potential inundation are shown on the following FEMA-based Potential Flooding map.

#### Water Quality

Stormwater runoff flows to Upper Penitencia Creek, and then northerly to San Francisco Bay.

#### Nonpoint Sources

The Clean Water Act states that the discharge of pollutants in stormwater to Waters of the United States from any point source is unlawful, unless the discharge is in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. The U.S. Environmental Protection Agency requires under the Clean Water Act that any stormwater discharge from construction sites larger than five acres be in compliance with the NPDES. The State Regional Water Quality Control Board (RWQCB), which is responsible for implementing and enforcing the program, issued a statewide General Permit for construction activities. Provisions of the current Permit require that the following issues be addressed with respect to water quality regardless of the size of the site: 1) erosion and sedimentation during clearing, grading or excavation of a site; and 2) the discharge of stormwater once construction is completed. Coverage under this Permit would be obtained by submitting a Notice of Intent to the RWQCB that identifies the responsible party, location and scope of operation; and by developing and implementing a Storm Water Pollution Prevention Plan (SWPPP) as well as monitoring the effectiveness of the plan.

The Santa Clara Valley Nonpoint Source Control Program was developed to control nonpoint sources of pollution from entering water sources and deteriorating water quality. A number of control measures, including those related to development activities, industrial and construction inspections, public agency activities and public outreach efforts, are also currently being developed and implemented. The development, implementation and enforcement of control measures to reduce pollutant discharges from areas of new development is the responsibility of the Nonpoint Source Control Program in cooperation with the RWQCB.

[Click here for](#)  
POTENTIAL FLOODING MAP HERE  
(FIGURE 17)

### *SIGNIFICANCE CRITERIA*

The proposed project would have a significant impact on hydrology and water quality if it would:

- Violate any water quality standards or waste discharge requirements.
- Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted).
- Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site.
- Result in increased erosion in its watershed.
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site.
- Substantially alter drainage patterns due to changes in runoff volumes and flow rates.
- Result in increased impervious surfaces and associated increased runoff as specified in the NPDES permit and the City's Post Construction Urban Runoff Management Policy.
- Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.
- Result in an increase in pollutant discharges to receiving waters such as heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash.
- Result in an increase in any pollutant for which the water body is already impaired as listed on the Clean Water Act Section 303 (d) list available from the State Water Resources Control Board.
- Result in alteration of receiving water quality during or following construction including clarity, temperature, and level of pollutants.
- Substantially alter surface water quality, or marine, fresh, or wetland waters as specified in the NPDES permit.
- Substantially alter ground water quality as specified in the NPDES permit.
- Cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses as specified in the NPDES Permit, General Plan, and City policy.
- Otherwise substantially degrade water quality.
- Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map.
- Place within a 100-year flood hazard area structures that would impede or redirect flood flows.
- Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.
- Be subject to inundation by seiche, tsunami or mudflow.

### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>8. HYDROLOGY AND WATER QUALITY. Would the project:</b>					
a. Violate any water quality standards or waste discharge requirements?		<b>X</b>			28,55,69
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				<b>X</b>	25,27
c. Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				<b>X</b>	25,26
d. Result in increased erosion in its watershed?		<b>X</b>			45,46
e. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?				<b>X</b>	25,26
f. Substantially alter drainage patterns due to changes in runoff volumes and flow rates?			<b>X</b>		25,26
g. Result in increased impervious surfaces and associated increased runoff as specified in the NPDES permit and the City's Post Construction Urban Runoff Management Policy?			<b>X</b>		25,26
h. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				<b>X</b>	26,28
i. Result in an increase in any pollutant discharges to receiving waters such as heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash?			<b>X</b>		26,28
j. Result in an increase in any pollutant for which the water body is already impaired as listed on the Clean Water Act Section 303 (d) list available from the State Water Resources Control Board?				<b>X</b>	26,28

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>8. HYDROLOGY AND WATER QUALITY (Cont.). Would the project:</b>					
k. Result in alteration of receiving water quality during or following construction including clarity, temperature, and level of pollutants?				X	26,28
l. Substantially alter surface water quality, or marine, fresh, or wetland waters as specified in the NPDES permit?				X	26,55
m. Substantially alter ground water quality as specified in the NPDES permit?				X	26,55
n. Cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses as specified in the NPDES permit, General Plan, and City policy?				X	26,29,55
o. Otherwise substantially degrade water quality?				X	26,28
p. Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?			X		26, 27,53,54
q. Place within a 100-year flood hazard area structures that would impede or redirect flood flows?			X		26, 27,53,54
r. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X	27,28
s. Be subject to inundation by seiche, tsunami or mudflow?				X	27

### **Flooding**

The project site is within the limits of potential inundation with the occurrence of a one percent flood.

### **Water Quality**

The primary impact on water quality would be from street drainage. Particulates, oils, greases, toxic heavy metals, pesticides and organic materials are typically found in urban storm runoff. The project's contribution would not be expected to have a significant impact on water quality. Construction-related activities such as clearing, grading, or excavation, however, could result in potentially significant temporary impacts to water quality.

## *PROGRAM MITIGATION MEASURES*

### **Water Quality**

- A Notice of Intent and a Storm Water Pollution Prevention Plan that addresses both construction and post-construction periods and specifies erosion and sediment control measures, waste disposal controls, maintenance responsibilities and non-stormwater management controls, shall be submitted to the RWQCB to comply with the stormwater discharge requirements of the NPDES General Permit.

## *MITIGATION MEASURES INCLUDED IN THE PROJECT*

### **Flooding**

- Buildings shall be designed so that the finished floor is elevated above the projected FEMA flood level.

### **Water Quality**

- A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the local NPDES permit shall be developed and implemented including: 1) site description; 2) erosion and sediment controls; 3) waste disposal; 4) implementation of approved local plans; 5) proposed post-construction controls, including description of local post-construction erosion and sediment control requirements; 6) Best Management Practices (BMPs) such as the use of infiltration of runoff onsite, first flush diversion, flow attenuation by use of open vegetated swales and natural depressions, stormwater retention or detention structures, oil/water separators, porous pavement, or a combination of these practices for both construction and post-construction period water quality impacts; and 7) non-storm water management.

## 9. LAND USE AND PLANNING

### *SETTING*

#### **General Plan**

The land use designation for the project site on the San Jose 2020 General Plan is Transit Corridor Residential (20+ du/ac). The project conforms with this classification.

#### **Special Areas**

The project site is not located within any of the following special areas:

- Midtown Planned Community and Specific Plan Area
- Jackson – Taylor Planned Residential Community
- Communications Hill Planned Residential Community
- Evergreen Planned Residential Community
- Berryessa Planned Residential Community
- Silver Creek Planned Residential Community
- Alviso Master Plan Area
- Tamien Specific Plan Area
- Downtown Strategy Plan Area
- North San Jose (Rincon de Los Esteros Redevelopment Area)
- Edenvale Redevelopment Area

#### **Zoning**

The project site is currently zoned "A"-Agriculture in the County of Santa Clara. The project is an application to prezone the site to A(PD) in accordance with the proposed General Development Plan. Subsequent to the zoning, the project site will be annexed to the City of San Jose.

#### **Existing Use**

The project site is currently an inactive orchard; the site has been an orchard since the 1950s. Previous use of the site was presumably vacant and undeveloped land. The proposed project is a land use presently existing in the surrounding neighborhood (within 500 feet of the project site).

#### **Surrounding Uses**

Land uses surrounding (within 500 feet of) the project site include: an orchard to the north; N. Capitol Avenue with future light rail in the median and single family detached residential to the east; and single family attached residential to the south and to the west. There is an electrical substation to serve the future light rail line adjacent to the southeasterly corner of the site along N. Capitol Avenue.

### *SIGNIFICANCE CRITERIA*

The proposed project would have a significant impact on land use and planning if it would:

- Physically divide an established community.
- Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan,

local coastal program or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

- Conflict with any applicable habitat conservation plan or natural community conservation plan.

#### *IMPACT AND MITIGATION*

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>9. LAND USE AND PLANNING. Would the project:</b>					
a. Physically divide an established community?				<b>X</b>	25,26
b. Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				<b>X</b>	29
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?				<b>X</b>	25,26,28

The project would change the land use on the site from inactive agricultural to residential use in accordance with the General Plan land use designation. Residential use is compatible with the surrounding area. Development of the project site would introduce new roads and homes to the area. These uses would change the view of the site and would generate increases in traffic, noise and air pollution in the area that would not be significant.

#### *MITIGATION MEASURES INCLUDED IN THE PROJECT*

None required.

## 10. MINERAL RESOURCES

### SETTING

The project site does not contain any known important mineral resources.

### SIGNIFICANCE CRITERIA

The proposed project would have a significant impact on mineral resources if it would:

- Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state.
- Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>10. MINERAL RESOURCES. Would the project:</b>					
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				<b>X</b>	27,29,59
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				<b>X</b>	27,29,59

The project would not result in the loss of availability of a known mineral resource.

### MITIGATION MEASURES INCLUDED IN THE PROJECT

None required.

## 11. NOISE

*Charles M. Salter Associates, Inc. conducted an environmental noise assessment that is included in the Technical Appendix.*

### SETTING

#### Existing Noise Sources

Noise intrusion over the site originates primarily from vehicular traffic sources on N. Capitol Avenue, which carries an Average Daily Traffic (ADT) volume of 21,500 along the site. The project site is also approximately 600 feet easterly of I-680. Noise from traffic on other surface streets does not significantly impact the site.

#### ALUC Noise Zone

The project site is not located within an Airport Land Use Commission (ALUC) Noise Zone (65 dB CNEL).

#### Measurements

Noise levels are described in terms of the Day-Night Sound Level (DNL), which is the 24-hour noise descriptor used by the City of San Jose to define acceptable noise levels. These values are calculated from the energy equivalent level ( $L_{eq}$ ).

To obtain the  $L_{eq}$  values, continuous sound level measurements were made on March 24-25, 2003, for a total period of 24 hours, and included representative hours of the daytime and nighttime periods of the DNL index. Several short-term "spot" measurements were also taken at various locations and elevations on the site for comparison with corresponding time periods from the long-term monitors to determine how noise levels vary in different areas and elevations above grade. Calculations result in a DNL value of 67 dB along N. Capitol Avenue, and a value of 65 dB along Baton Rouge Drive. Noise levels at units interior to the site, and along the south and west property lines are exposed to an estimated noise level of 57 to 60 dB DNL.

### SIGNIFICANCE CRITERIA

The proposed project would have a significant noise impact if it would result in:

- Exposure of persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.
- Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels.
- A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.
- A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.
- For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels.

- For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels.

#### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>11. NOISE. Would the project result in:</b>					
a. Exposure of persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?		<b>X</b>			26,60,87
b. Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?			<b>X</b>		25,27
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				<b>X</b>	25,26,28
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?		<b>X</b>			25,26,28
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				<b>X</b>	27,61
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				<b>X</b>	27,61

#### Standards

Noise criteria that apply to the project are the Noise Insulation Standards of the California Code of Regulations, Title 24; the City of San Jose General Plan; and the Zoning Ordinance of the San Jose Municipal Code. Title 24 is applicable to all new multi-family dwellings.

The Title 24 standards, which utilize the DNL descriptor, establish an exterior reference level of 60 dB and specify that residential buildings to be located within an annual DNL zone of 60 dB or greater require an acoustical analysis. The analysis report must show that the planned buildings provide adequate attenuation to limit intruding noise from exterior sources to an annual DNL of 45 dB in any habitable space.

The City of San Jose General Plan establishes a policy of requiring noise mitigation from transportation noise for residential land use where the exterior level exceeds 60 dB DNL and/or

the interior level exceeds 45 dB DNL. It is recognized, however, that attainment of the exterior noise quality levels in the vicinity of San Jose International Airport, the Downtown Core Area and along major roadways may not be achieved within the time frame of the General Plan. Exterior and interior noise levels and mitigation measures that comply with these San Jose standards would also achieve compliance with the Title 24 standards.

The San Jose Zoning Ordinance contains performance standards for the generation of noise at adjacent residential properties. Noise levels from air conditioning or other mechanical equipment is limited to 55 dBA at adjacent residential property lines.

### **Exterior Noise Exposures**

Onsite measurements and calculations determined that the maximum DNL along N. Capitol Avenue under existing traffic conditions is 67 dB, and is 65 dB along Baton Rouge Drive. Noise levels at units interior to the site, and along the south and west property lines are exposed to an estimated noise level of 57 to 60 dB DNL.

To fully assess the impact of traffic noise on the project, future traffic levels must also be considered. VTA Light Rail and increased automobile traffic volumes along N. Capitol Avenue will contribute to future noise levels. The Capitol Corridor Light Rail Project EIR indicates that the DNL along N. Capitol Avenue will increase by 3 dB in the future due to operation of light rail and increased vehicle traffic. The future noise exposure along N. Capitol Avenue is calculated to increase to 70 dB DNL. The future noise exposure along Baton Rouge Drive is calculated to increase to 68 dB DNL. These represent noise levels at the height of windows at occupied spaces facing the respective roadways. The noise levels at interior units and along the south and west property lines would be exposed to an estimated future noise level of 60 to 63 dB DNL. The future 70 dB DNL at the most impacted dwellings along N. Capitol Avenue would exceed the City of San Jose policy level and the Title 24 criterion by up to 10 dB; along Baton Rouge Drive by up to 8 dB; and the remainder of the site by up to 3 dB.

The Site Plan shows outdoor use spaces such as private porches or decks, and a common tot lot and recreation area. Design noise levels exceed the City's exterior noise goals along N. Capitol Avenue and along Baton Rouge Drive for private porch and deck spaces. Noise mitigation, in the form of barrier walls or short barrier walls combined with clear plastic or glass above, could provide 5 to 7 dB of noise reduction. The resulting noise levels would still exceed the City's goals. Further attenuation of outdoor noise would require fully enclosing the porches and decks, which would detract from the benefits of outdoor use space.

### **Interior Noise Exposures**

To determine the interior DNL values, a 15 dB attenuation factor was applied to the measured exterior exposure. This factor represents an annual average condition; i.e., assuming that windows with single-strength glass are kept open up to 50 percent of the time for natural

ventilation. Interior noise exposures in the dwelling units closest to N. Capitol Avenue would be 55 dB DNL under projected future traffic conditions, 53 dB DNL along Baton Rouge Drive, and 45 to 48 dB throughout the remainder of the site. Thus, the interior exposure would be up to 10 dB in excess of the 45 dB interior limit of the General Plan and Title 24.

Windows facing the interior of the site or the south or west property lines do not need to be sound rated; however, since the entire site is exposed to exterior sound levels of 60 dB DNL or greater, all units must have ventilation or air conditioning to provide a habitable environment.

### **Project-Generated Mechanical Noise Levels**

The project should incorporate proper attenuation to reduce noise from air conditioning units and other mechanical equipment to the levels outlined in the San Jose Municipal Code. Mitigation may include equipment selection and location, and, if necessary, equipment enclosures. Mitigation measure details would be determined at the PD Permit stage.

### **Temporary Construction Noise**

During construction, the site preparation and construction phase would generate temporary sound levels ranging from approximately 70 to 90 dBA at 50 foot distances from heavy equipment and vehicles. These construction vehicles and equipment are generally diesel powered, and produce a characteristic noise that is primarily concentrated in the lower frequencies.

The powered equipment and vehicles act as point sources of sound, which would diminish with distance over open terrain at the rate of 6 dBA for each doubling of the distance from the noise source. For example, the 70 to 90 dBA equipment peak noise range at 50 feet would reduce to 64 to 84 dBA at 100 feet, and to 58 to 78 dBA at 200 feet. Therefore, during the construction operations, sound level increases of 20 to 40 dBA due to these sources could occur near the project boundary.

Since construction is carried out in several reasonably discrete phases, each has its own mix of equipment and consequently its own noise characteristics. Generally, the short-term site preparation phase, which requires the use of heavy equipment such as bulldozers, scrapers, trenchers, trucks, etc., would be the noisiest. The ensuing building construction and equipment installation phases would be quieter and on completion of the project, the area's sound levels would revert essentially to the traffic levels.

## ***PROGRAM MITIGATION MEASURES***

### **Interior Noise**

- Mechanical ventilation shall be provided in accordance with Uniform Building Code requirements when windows are to be closed for noise control.

## MITIGATION MEASURES INCLUDED IN THE PROJECT

*Mitigation measure discussions in this section refer to the following Noise Attenuation map. Details and specifications are included in the noise assessment.*

### **Exterior Noise**

- Solid railings shall be constructed at all porches and/or decks to the satisfaction of the Director of Planning, Building and Code Enforcement.

### **Interior Noise**

- Windows and sliding glass doors shall be maintained closed and STC 30 or higher rated windows and doors shall be installed at all living spaces facing N. Capitol Avenue.
- Windows and sliding glass doors shall be maintained closed and STC 28 or higher rated windows and doors shall be installed at all living spaces facing Baton Rouge Drive.
- Windows and sliding glass doors shall be maintained closed and windows and glass doors with STC ratings 3 points higher than those indicated above shall be installed at all corner rooms facing either N. Capitol Avenue or Baton Rouge Drive.
- Windows and sliding glass doors shall be maintained closed at all other living spaces within the site.

### **Project-Generated Mechanical Noise**

- Measures, including equipment selection, location, and/or enclosures, to mitigate project-generated mechanical noise to 55 dB DNL at the property line shall be determined to the satisfaction of the Director of Planning, Building and Code Enforcement at the PD Permit stage.

### **Temporary Construction Noise**

- Noisy construction operations shall be scheduled for the daytime hours of 7:00 a.m. to 7:00 p.m. Monday through Friday so as to avoid the more sensitive evening, nighttime and weekend hours.

[Click here for](#)  
NOISE ATTENUATION MAP HERE  
(FIGURE 18)

## 12. POPULATION AND HOUSING

### SETTING

The population of the City of San Jose is approximately 918,800. The project site is located in Census Tract 5038.04, which has a population of approximately 4,239 (2000 Census). There are no housing units currently on the project site.

### SIGNIFICANCE CRITERIA

The proposed project would have a significant impact on population and housing if it would:

- Induce substantial population growth in an area, either directly or indirectly.
- Displace numbers of existing housing, necessitating the construction of replacement housing elsewhere.
- Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>12. POPULATION AND HOUSING. Would the project:</b>					
a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X	25,26,28
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X	25,26
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X	25,26

The project would not displace any existing housing units. The project would add 91 housing units that would add approximately 292 people to the City of San Jose, which would not be a substantial increase to the City's population.

Direct growth inducing impacts include the construction of streets and utilities that would provide access to or capacity for additional undeveloped land. The site is bordered by developed residential and agricultural uses. The project would not have a direct growth inducing impact. Indirect growth inducing impacts include increases in population and economic impacts. There would be short-term increases in employment in the construction industry. The project would not have an indirect growth inducing impact.

### MITIGATION MEASURES INCLUDED IN THE PROJECT

None required.

## 13. PUBLIC SERVICES

### SETTING

#### Schools

The project site is in the Berryessa Union School District (K-8) and the East Side Union High School District (9-12). Students from the project are expected to attend:

School	Address	Approx. Distance (miles)	Enrollment
Summerdale Elementary	1100 Summerdale Drive	0.9	497
Piedmont Middle	955 Piedmont Road	1.3	939
Independence High	1776 Educational Park Drive	0.6	4,300

Some grade levels within the elementary school district are impacted, and the district enrollment is growing yearly.

#### Parks

There are no developed City of San Jose parks within walking distance (3/4 mile) of the project site. The closest City park is Cimarron Park, a 7.2-acre neighborhood park located at Pellas Lane and Orange Street, which contains a basketball court, a playground and picnic tables.

#### Fire Protection

The project site is in the service area of the San Jose Fire Department. The fire stations responding to emergency calls, i.e., fires and emergency medical situations, within the project site and their approximate response times are listed below. The total reflex time is the time from when the Department first receives the call to when the firemen reach their destination.

Station No.	Address	Approx. Distance (miles)	Projected Travel Time (minutes)	Travel Time Standard (minutes)	Projected Total Reflex Time (minutes)	Total Reflex Time Standard (minutes)
<b>Initial First Alarm:</b>						
1st Engine: 2	2993 Alum Rock Avenue	1.6	4.0	4.0	8.0	8.0
2nd Engine: 19	1025 Piedmont Road	1.8	4.5	6.0	8.5	10.0
1st Truck: 2	2993 Alum Rock Avenue	1.6	4.5	6.0	8.5	10.0
1st B. Chief 2	2993 Alum Rock Avenue	1.6	4.0	9.0	8.0	13.0
<b>Full First Alarm:</b>						
3rd Engine: 23	1771 Via Cinco de Mayo	2.5	6.0	9.0	10.0	13.0
2nd Truck: 5 *	1380 N. Tenth Street	3.6	9.0	11.0	13.0	15.0
2nd B. Chief 1	225 N. Market Street	6.5	12.0	11.0	16.0	15.0

\* Urban Search and Rescue (USAR) unit.

B. Chief = Battalion Chief

All of the response times are within the recommended limits except for the 2nd battalion chief, whose travel and total reflex times exceed the recommended limits by one minute.

### Police Protection

The project site is within Beat No. W-4 of the San Jose Police Department's service area. The major crimes reported in Beat W-4 in terms of frequency during 2002 were narcotics, petty theft and simple assault.

#### SIGNIFICANCE CRITERIA

The proposed project would have a significant impact on public services if it would:

- Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: Fire protection; Police protection; Schools; Parks; and Other Public Facilities.

#### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>13. PUBLIC SERVICES. Would the project:</b>					
a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
Fire protection?			X		11
Police protection?			X		65
Schools?			X		7,8,9
Parks?			X		10,63
Other Public Facilities?			X		28

### Schools

The project would add additional students to the Berryessa Union School District and the East Side Union High School District, as follows:

<b>School</b>	<b>Enrollment</b>	<b>Generation Factor</b>	<b>Number of Students</b>
Summerdale Elementary	497	0.14/du	13
Piedmont Middle	939	0.07/du	7
Independence High	4,300	0.20/du	19

Based on the district generation factors listed above, the project would generate a total of up to 39 students. This is not considered to have a significant physical effect on the environment.

The State School Facilities Act provides for school district impact fees for elementary and high schools and related facilities as a condition of approval of residential projects. Both districts have implemented such a fee. The one-time fee, which is based on the square footage of new habitable residential construction, would be paid prior to the issuance of a building permit and would be allocated to the two districts.

### **Parks**

The City of San Jose provides parks and recreation facilities within the city. Project residents would increase the demand for public park facilities; however, there are currently no developed City of San Jose parks within the 3/4-mile reasonable walking distance standard. An approximately 3,400 square foot tot lot and an approximately 2,500 square foot turfed area for active and/or passive recreational activities, and including picnic areas, are planned with the project.

### **Parkland Dedications**

The City has established a Park Impact Fee Ordinance that requires dedication of land and/or payment of fees for any net increase in residential units to help provide park and recreational facilities in accordance with the Services and Facilities and the Parks and Recreation Goals and Policies of the General Plan. There are currently no plans to dedicate land for park purposes with the project.

### **Fire Protection**

The project site is in the service area of the San Jose Fire Department. All of the response times are within the recommended limits, except for the 2nd battalion chief, whose travel and total reflex times exceed the recommended limits by one minute. No additional fire personnel or equipment would be necessary due to the implementation of this project.

### **Police Protection**

The San Jose Police Department provides police protection for the city. No additional police personnel or equipment are expected to be necessary to serve the project.

### ***MITIGATION MEASURES INCLUDED IN THE PROJECT***

None required.

## 14. RECREATION

### SETTING

There are no developed City of San Jose parks within walking distance (3/4 mile) of the project site. The closest City park is Cimarron Park, a 7.2-acre neighborhood park located at Pellas Lane and Orange Street, which contains a basketball court, a playground and picnic tables.

### SIGNIFICANCE CRITERIA

The proposed project would have a significant impact on recreation if it would:

- Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.
- Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.

### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>14. RECREATION.</b>					
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			X		62,63
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?				X	26,28

The City of San Jose provides parks and recreation facilities within the city. Project residents would increase the demand for public park facilities; however, there are currently no developed City of San Jose parks within the 3/4-mile reasonable walking distance standard. An approximately 3,400 square foot tot lot and an approximately 2,500 square foot turfed area for active and/or passive recreational activities, and including picnic areas, are planned with the project.

### MITIGATION MEASURES INCLUDED IN THE PROJECT

None required.

## 15. TRANSPORTATION / TRAFFIC

*TJKM Transportation Consultants conducted a traffic impact analysis that is included in the Technical Appendix.*

### SETTING

#### Street System

Access to the project site is provided by Baton Rouge Drive, which is a two-lane local street. N. Capitol Avenue is a four-lane arterial along the site's easterly boundary, providing access to I-680 via Berryessa Road to the north and via McKee Road to the south.

#### Level of Service

In an urban street network, the critical determinants for overall traffic conditions are the operational characteristics of the major intersections. To establish a standard frame of reference when describing traffic flow, the concept of level of service is used. As described by the *Highway Capacity Manual*, the level of service of a facility is a theoretical traffic volume determined by its physical and operational characteristics and by stipulated conditions of traffic flow. Delay is a measure of driver discomfort, frustration, fuel consumption, and lost travel time, which is measured as the average stopped delay per vehicle. Flow conditions vary from unrestricted at Level A to forced flow at Level F, as described below.

The major street system in the project site vicinity and the levels of service are shown on the following Major Street System map.

Level of Service	Type of Flow	Traffic Conditions	V/C Ratio	Delay (sec.)
A	Free	No approach phase fully utilized. No vehicle waits longer than one red indication.	<0.60	≤5.0
B	Stable	An occasional approach phase is fully utilized.	0.60-0.69	5.1-15.0
C	Stable	Occasional drivers may have to wait through more than one red signal. Backups may develop behind turning vehicles.	0.70-0.79	15.1-25.0
D	Approaching Unstable	Delays to vehicles may be substantial during short peaks, but periodic clearance of queues prevents excessive backups from developing.	0.80-0.89	25.1-40.0
E	Unstable	Capacity, with sustained delays and backups.	0.90-0.99*	40.1-60.0
F	Forced	Excessive delay.	Varies	>60.0

\* In general, V/C ratios could not be greater than 1.00. However, if future demand projections are considered for analytical purposes, a ratio greater than 1.00 might be obtained, indicating that the projected demand would exceed the capacity.

[Click here for](#)  
MAJOR STREET SYSTEM MAP HERE  
(FIGURE 19)

### Existing Conditions

Local conditions and project impacts are evaluated by TRAFFIX, which is a computer program based on the *Highway Capacity Manual* method for signalized intersections. TRAFFIX evaluates signalized intersection operations on the basis of average delay time for all vehicles at the intersection. Four major signalized intersections that would be affected by the project are reviewed. Two additional unsignalized intersections, Mabury Road and Cedarville Lane and N. Capitol Avenue and Baton Rouge Drive, were also reviewed, as detailed in the report in the Technical Appendix. The General Plan/Transportation Level of Service Policy requires that the minimum overall performance of City streets during peak travel periods should be level of service "D".

The major intersections were evaluated under existing and future traffic conditions to determine their level of service. Future conditions were determined by adding traffic projections from approved projects that have not been occupied, as provided by the City Department of Public Works Development Services Division, to the existing condition.

The following table lists the critical V/C ratios, weighted average delays and equivalent levels of service for the existing and existing plus approved evening peak hour.

**Table 3. Existing Levels of Service**

Intersection	Peak Hour	Critical V/C	Existing Delay* (sec.)	LOS	Existing + Approved		
					Critical V/C	Delay* (sec.)	LOS
Berryessa Road and N. Capitol Avenue	a.m.	0.80	33.6	D	0.80	35.5	D
	p.m.	0.63	31.6	D	0.62	34.0	D
N. Capitol Avenue and Mabury Road	a.m.	0.72	33.0	D	0.61	33.1	D
	p.m.	0.64	33.2	D	0.52	33.7	D
N. Capitol Avenue and Gimelli Way	a.m.	0.36	10.8	B	0.37	11.2	B
	p.m.	0.34	10.2	B	0.34	9.5	B
N. Capitol Avenue and McKee Road	a.m.	0.69	33.4	D	0.74	34.2	D
	p.m.	0.92	38.5	D	0.80	30.7	D

\*Delay – Average delay for the whole intersection in seconds.

LOS = Level of Service

Under the existing plus approved condition, none of the intersections is operating below Level D.

### Public Transit

Public transit in the project area is provided by the Santa Clara Valley Transportation Authority. Bus route 74 operates along N. Capitol Avenue with stops at Baton Rouge Drive.

The Tasman East/Capitol Light Rail Extension is under construction along N. Capitol Avenue, adjacent to the project site. The project site is located just beyond 2,000 feet of a future light rail station to be located north of McKee Road.

### **Congestion Management Program Analysis**

A Congestion Management Program (CMP) analysis was not performed because the Santa Clara County Congestion Management Agency, which monitors regional traffic issues, does not require an analysis for small projects of less than 100 peak hour trips.

### **Freeway Segment Analysis**

A freeway level of service analysis was not performed since project trips on freeway segments would not be greater than one percent of the capacity of the segments.

#### *SIGNIFICANCE CRITERIA*

The proposed project would have a significant impact on transportation / traffic if it would:

- Cause a City intersection operating at Level D or better to operate at Level E or F; or cause an increase in critical delay of 4.0 or more seconds and an increase in the critical V/C ratio of 0.010 or more at a City intersection that is projected to operate at Level E or F with existing plus approved projects.
- Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways.
- Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.
- Substantially increase hazards due to a design feature or incompatible uses.
- Result in inadequate emergency access.
- Result in inadequate parking capacity.
- Conflict with adopted policies, plans or programs supporting alternative transportation.

#### *IMPACT AND MITIGATION*

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>15. TRANSPORTATION/TRAFFIC. Would the project:</b>					
a. Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio of roads, or congestion at intersections)?			X		68,71,88
b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X	74,88

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>15. TRANSPORTATION/TRAFFIC (Cont.). Would the project:</b>					
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X	27,28
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?				X	26,28
e. Result in inadequate emergency access?				X	26,28
f. Result in inadequate parking capacity?				X	26,28
g. Conflict with adopted policies, plans or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X	26,29

### Trip Generation

The project traffic generation is estimated in the following table.

**Table 4. Project Traffic Generation**

Land Use	Units	Trip Rate	Daily Trips	A.M. Peak Hour Trips			P.M. Peak Hour Trips		
				In (17%)	Out (83%)	Total	In (67%)	Out (33%)	Total
SFA residential	91	7.5	683	9	42	51	42	21	63

### Trip Distribution and Assignment

The project-generated trips were distributed and assigned to the local street system in accordance with existing travel patterns, knowledge of the area, and input from City staff. Further trip distributions are detailed in the traffic analysis in the Technical Appendix.

Direction	Percent
North	40
South	25
East	15
West	20
	100

### Project Impacts

The major intersections were analyzed for changes in average delay and level of service with the addition of project traffic. The critical V/C, average delays and corresponding levels of service are listed in the following table, and the levels of service are shown on the following Traffic Impacts map.

**Table 5. Project Levels of Service**

Intersection	Peak Hour	Existing + Approved			Exist. + App. + Project		
		Critical V/C	Delay* (sec.)	LOS	Critical V/C	Delay* (sec.)	LOS
Berryessa Road and N. Capitol Avenue	a.m.	0.80	35.5	D	0.81	35.7	D
	p.m.	0.62	34.0	D	0.63	34.0	D
N. Capitol Avenue and Mabury Road	a.m.	0.61	33.1	D	0.62	33.4	D
	p.m.	0.52	33.7	D	0.53	32.9	D
N. Capitol Avenue and Gimelli Way	a.m.	0.37	11.2	B	0.37	11.2	B
	p.m.	0.34	9.5	B	0.34	9.6	B
N. Capitol Avenue and McKee Road	a.m.	0.74	34.2	D	0.75	34.3	D
	p.m.	0.80	30.7	D	0.80	30.9	D

\*Delay = Average delay for the whole intersection in seconds.

LOS = Level of Service

The existing plus approved levels of service at the four intersections would remain unchanged with the addition of project traffic; and none of the intersections would operate below Level D. Therefore, the project's traffic impacts would be non-significant and no mitigation measures are required to meet the City's Transportation Level of Service Policy.

*MITIGATION MEASURES INCLUDED IN THE PROJECT*

None required.

[Click here for](#)  
TRAFFIC IMPACTS MAP HERE  
(FIGURE 20)

## 16. UTILITIES AND SERVICE SYSTEMS

### *SETTING*

#### **Sanitary Sewers**

There is an existing 6-inch City of San Jose sanitary sewer in Baton Rouge Avenue, westerly of the project site, and an existing 10-inch City sanitary sewer in N. Capitol Avenue. Extensions within the project would be required.

#### **Wastewater Treatment**

Wastewater treatment for the City of San Jose is provided by the San Jose-Santa Clara Water Pollution Control Plant (WPCP). Capacity is expected to be available to serve the project based on the current capacity of 167 million gallons per day (MGD). The Water Pollution Control Plant is currently processing an estimated 135 MGD of dry weather flow. At the same time, the WPCP is currently operating under a 120 MGD dry weather flow trigger. This requirement is based upon the State Water Resources Board and the Regional Water Quality Control Board (RWQCB) concerns over the effects of additional freshwater discharges on the saltwater marsh habitat, and pollutants loading to the South Bay from the WPCP. A Growth Management System regulates new development to assure that the capacity is not exceeded. There are programs and services in place to help minimize flows to the Plant and, while plans are in place to ensure Plant compliance with the 120 mgd trigger, those plans call for conservation and water recycling as strategies for ongoing compliance.

#### **Water Supply**

There is an existing 8-inch San Jose Water Company (SJWC) water line in Baton Rouge Drive and an existing 16-inch SJWC water line in N. Capitol Avenue. Extensions within the project would be required.

#### **Storm Drainage Facilities**

There is an existing 21-inch City of San Jose storm drainage line in Baton Rouge Avenue, westerly of the project site, and an existing 30-inch City sanitary sewer in N. Capitol Avenue. Extensions within the project would be required.

#### **Solid Waste / Recycling**

Residential solid waste disposal service for the project site is provided by the City of San Jose, using GreenTeam of San Jose and/or Norcal. They are currently using the Newby Island sanitary landfill disposal site operated by International Disposal Company. The landfill area has an estimated service life of 30 years. An unlimited residential recycling program in the City currently results in an approximately 50 percent reduction in residential solid waste that typically required disposal in a landfill.

### Gas and Electric Service

Natural gas and electric services for San Jose are provided by Pacific Gas and Electric Company. There are existing services in the area.

### Telephone Service

Telephone service for the project site is provided by SBC. There is existing service in the area.

#### SIGNIFICANCE CRITERIA

The proposed project would have a significant impact on utilities and service systems if it would:

- Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board.
- Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.
- Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.
- Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed.
- Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.
- Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs.
- Comply with federal, state and local statutes and regulations related to solid waste.

#### IMPACT AND MITIGATION

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>16. UTILITIES AND SERVICE SYSTEMS. Would the project:</b>					
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			<b>X</b>		15,28,69
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			<b>X</b>		28
c. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			<b>X</b>		13,28

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
<b>16. UTILITIES AND SERVICE SYSTEMS (Cont.). Would the project:</b>					
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			X		28
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			X		28
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?			X		28
g. Comply with federal, state and local statutes and regulations related to solid waste?			X		28

### Sanitary Sewers

Sanitary sewer service for the project site is provided by the City of San Jose. The 6-inch sanitary sewer line in Baton Rouge Avenue, westerly of the project site, and the 10-inch City sanitary sewer in N. Capitol Avenue are available and adequate to serve the project. Extensions within the project would be provided.

### Wastewater Treatment

Wastewater treatment for the City of San Jose is provided by the San Jose-Santa Clara Water Pollution Control Plant. The project is estimated to generate an average of approximately 16,400 gallons per day (0.02 MGD) of effluent, based on the Growth Management System's land use/effluent coefficient of 180 gallons per day per single family attached residential unit. High energy efficiency appliances (e.g., Energy Star Certified clothes washers, dishwashers, etc.) would be provided with the project.

### Water Supply

Water for the project site is provided by the San Jose Water Company. The 8-inch water line in Baton Rouge Drive and the 16-inch SJWC water line in N. Capitol Avenue are available and adequate to serve the project. Extensions within the project would be provided. The project is estimated to require approximately 35,000 gallons of water per day, based on 120 gallons per person per day. The project incorporates built-in water savings devices such as shower heads with flow control devices and low flush toilets to reduce water usage.

**Storm Drainage Facilities**

An increase in impervious surfaces associated with project development would cause an increase in stormwater runoff. Storm drainage service for the project site is provided by the City of San Jose. The 21-inch storm drainage line in Baton Rouge Avenue, westerly of the project site, and the 30-inch City sanitary sewer in N. Capitol Avenue are available and adequate to serve the project. Extensions within the project would be provided. An onsite collection system including curbs, gutters and an underground system would be included in the project.

**Solid Waste / Recycling**

Residential solid waste disposal service for the project site is provided by the City of San Jose. The project is estimated to generate up to approximately 160 tons of solid waste per year, based on 3.0 pounds per person per day; however, with recycling, the amount disposed of in a landfill could be reduced to approximately 80 tons per year.

**Gas and Electric Service**

There are existing Pacific Gas and Electric Company gas and electric services in the area that would be extended as required to serve the project. There is sufficient capacity in this utility system to provide adequate project service.

**Telephone Service**

There are existing SBC telephone facilities in the area that would be extended as required to serve the project. There is sufficient capacity in this utility system to provide adequate project service.

*MITIGATION MEASURES INCLUDED IN THE PROJECT*

None required.

## 17. MANDATORY FINDINGS OF SIGNIFICANCE

ISSUES	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
<b>17. MANDATORY FINDINGS OF SIGNIFICANCE.</b>				
a. Does the project have the potential to (1) degrade the quality of the environment, (2) substantially reduce the habitat of a fish or wildlife species, (3) cause a fish or wildlife population to drop below self-sustaining levels, (4) threaten to eliminate a plant or animal community, (5) reduce the number or restrict the range of a rare or endangered plant or animal or (6) eliminate important examples of the major periods of California history or prehistory?			<b>X</b>	
b. Does the project have impacts that are individually limited, but cumulatively considerable? "Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects and the effects of other current projects.			<b>X</b>	
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?		<b>X</b>		

# ENVIRONMENTAL CLEARANCE APPLICATION

## APPLICANT'S CERTIFICATION

APPLICANT Trumark Companies

PROJECT TITLE ***Baton Rouge Drive Property***

PROJECT LOCATION Southwesterly quadrant of Baton Rouge Drive and  
N. Capitol Avenue

I hereby certify that the statements furnished about and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

If, to my knowledge, any of the facts represented here change, it is my responsibility to inform the City of San Jose.

---

Date

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Applicant

## **APPENDIX**

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16. **Skip Lacaze**, Senior Environmental Specialist, Office of Environmental Management, City of San Jose
17. **Gas and Electrical Mapping Departments**, Pacific Gas and Electric Company

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85. **Burrowing Owl Survey, Baton Rouge Drive Property**, Live Oak Associates, Inc., April 10, 2003
86. **Phase I Environmental Site Assessment, Baton Rouge Drive & North Capitol Avenue, San Jose, California**, AEI Consultants, May 5, 2003
87. **Environmental Noise Assessment, Baton Rouge Station, San Jose, California**, Charles M. Salter Associates, Inc., April 7, 2003
88. **Baton Rouge Traffic Impact Study**, TJKM Transportation Consultants, July 18, 2003

## **TECHNICAL APPENDIX**

## **TECHNICAL APPENDIX**

Copies of the following consultants' reports, which were prepared for the **Baton Rouge Drive Property** and are summarized in this Environmental Clearance Application / Initial Study, are included in this Technical Appendix.

**Burrowing Owl Survey, Baton Rouge Drive Property**, Live Oak Associates, Inc., April 10, 2003

**Phase I Environmental Site Assessment, Baton Rouge Drive & North Capitol Avenue, San Jose, California**, AEI Consultants, May 5, 2003

**Environmental Noise Assessment, Baton Rouge Station, San Jose, California**, Charles M. Salter Associates, Inc., April 7, 2003

**Baton Rouge Traffic Impact Study**, TJKM Transportation Consultants, June 20, 2003